IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 8225 of 1996

Between:

Bachu Srinivas, S/o. Chandramouli,

Prop:Sandeep Fertilizers, Parkal,
R/o.Parkal Village, Warangal District.

..... PETITIONER

AND

1. The Commissioner of Civil Supplies and Ex-Officio Secretary to

Government, Food and C.S. Department, Errum Manzil, Hyderabad.
2. The Joint Collector, C.S, Warangal, Warangal District.
3. The Inspector of Police, Vigilence Cell, C.S.Department, Warangal, Warangal District.

(Writ Petition against R3 is dismissed for default as per Court Order

dt. 10.4.2000)

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, order or direction, particularly one in the nature of Writ of Certiorari, calling for the records relating to the G.O.Ms.No. 229, Food & C.S. (II) Department , dt. 8/03/96 passed by the 1st respondent confirming the orders dt. 3/11/1992 made in ECAC. No.40/92 passed by the 2nd respondent and quash the same as illegal, arbitrary

Counsel for the Petitioner: MR.A.PRABHAKAR RAO

Counsel for the Respondents : GP FOR CIVIL SUPPLIES

The Court made the following :

ORDER:

This writ petition is filed questioning the orders dated 8-3-1996 passed by the Commissioner of Civil Supplies, Food and C.S. Department, Hyderabad confirming the orders dated 3-11-1992 of the Joint Collector in ECAC No.40/92, in confiscating the entire stocks of the fertilizers.

The main contention urged by the learned counsel for the petitioner is that both the authorities have failed to make out any prima facie case or any particular charge against the petitioner which indicated the violation of any of the provisions of the Essential Commodities Act, 1955. According to the learned counsel for the petitioner, there is no violation made out by the respondents and particularly when fertilizer does not fall within the category of Essential Commodities Act, 1955 and there is also no control order governing the sale of fertilizers.

Heard the arguments of both sides.

A reading of the impugned order does not disclose any specific violation or charge or illegality committed by the petitioner in the sale of fertilizers. The only allegation against the petitioner is that he has not maintained the stocks properly. In the absence of any concrete evidence placed to show that because of non-maintenance of the accounts properly, the Government or farmers have suffered any loss, it cannot be said that the petitioner has violated any of the provisions of Essential Commodities Act, 1955 and more so when it is said that fertilizer is not an essential commodity covered by the provisions of the E.C.Act. Since the petitioner is doing business in fertilizers, he is duty bound to maintain proper accounts. Taking into

consideration, lenient view be taken against the petitioner and therefore instead of confiscating the entire stock the ends of justice would meet if 1/4th of the seized stock is confiscated to the State.

The writ petition is allowed in part confiscating the 1/4th of the stock instead of entire stock. If the stock has already been sold or has been spoiled due to non-use, the amount equivalent to the extent of the confiscation as on the date of seizure shall be retained by the State and the balance shall be returned to the petitioner.

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N.V. RAMANA, J

9-11-2004
Kvrk/KSR

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on

Tuesday the Ninth day of November Two thousand and Four

To

1. The Commissioner of Civil Supplies and Ex-Officio Secretary to

Government, Food and C.S. Department, Errum Manzil, Hyderabad.
2. The Joint Collector, C.S, Warangal, Warangal District.
3. The Inspector of Police, Vigilance Cell, C.S. Department, Warangal, Warangal District.

4. Two CCs to GP for Civil Supplies, High Court Buildings, Hyd.(OUT)

5. Two CD copies.

THE HON'BLE SRI JUSTICE N. V. RAMANA

WRIT PETITION NO. 8225 OF 1996

09th NOVEMBER 2004

THE HON'BLE SRI JUSTICE N.V. RAMANA

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